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Donald C. Casey
311 North Washington Street Suite 100
Alexandria, VA 22314

In re Application of	:	
BOTT et al.	:	
Serial No.: 09/762,163	:	DECISION ON RENEWED
PCT App. No.: PCT/GB99/02425	:	
Int'l Filing Date: 23 July 1999	:	PETITION UNDER
Priority Date: 04 August 1998	:	
Attorney Docket No.: 4002-006	:	37 CFR 1.137(b)
For: AUTOMATED IMMUNOASSAY	:	
APPARATUS WITH FLEXIBLE PICK-UP ARM	:	

This is a decision on applicants' "LETTER RE: Petition Pursuant to 37 CFR 1.137(b)", filed on 11 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 March 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the 20 or 30 month period, was required.

On 08 July 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant.

On 07 January 2005, applicants responded to the Notification of Abandonment with a petition to revive along with a 3 page executed declaration and surcharge for filing the declaration after the thirty month period. Applicant submitted a petition fee in the amount of \$665.

On 04 March 2005, a decision dismissing the petition was mailed to applicant indicating that applicant paid the incorrect petition fee. Applicant had failed to pay the appropriate petition fee of \$750 (small entity) pursuant to a change in fees effective 08 December 2004.

On 11 March 2005, applicant, by letter, submitted the additional fees required to pay the appropriate petition fee.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

The petition fee of \$750 is now paid. Regarding Item (1), an executed declaration, was submitted on 07 January 2005. However, on closer review, the declaration appears to contain duplicate signature pages. Each page is signed by different inventors and combined into one declaration. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

Section 201.03 of the MPEP states, in pertinent part,:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

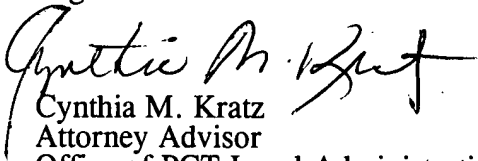
(Emphasis added.)

CONCLUSION

The petition under 37 CFR §1.137(b) is **DISMISSED WITHOUT PREJUDICE**. The application remains abandoned.

The declaration submitted on 07 January 2005 is unacceptable as filed. What is required is one declaration where all inventors have signed or two separate complete declarations in compliance with 37 CFR 1.497. Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this Decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459